

## **REMARKS**

In view of the above amendments and the following remarks, reconsideration of the rejections and further examination are requested. Upon entry of this amendment, the specification is amended, the abstract is amended, claims 1 and 3-7 are amended and claim 2 is cancelled, leaving claim 1 and 3-7 pending with claim 1 being independent. No new matter has been added.

### ***Substitute Specification***

The specification and abstract have been carefully reviewed and revised to correct grammatical and idiomatic errors in order to aid the Examiner in further consideration of the application. The amendments to the specification and abstract are incorporated in the attached substitute specification. No new matter has been added.

Also, attached hereto is a marked up version of the changes made to the specification and abstract by the current amendment. The attachment is captioned "Version with Markings to Show Changes Made."

### ***Information Disclosure Statement***

In the Office Action, the Examiner states that no copy of JP 64-30174 was provided. Applicants respectfully disagree and submit that a copy of this reference was provided. In fact, a copy of this reference is available in PAIR. Therefore, Applicants respectfully request that the Examiner reissue the SB/08 filed September 18, 2006 indicated that JP 64-30174 has been considered.

### ***Rejections Under 35 U.S.C. §102(b)***

Claims 1, 2, 4 and 5 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Imamura et al. (US 2004/0033399).

Applicants submit that the claims as now pending are allowable over the cited prior art. Specifically, amended independent claim 1 recites a fuel cell system comprising a controller configured to calculate a voltage deviation of each fuel cell of a plurality of fuel cells, for each fuel cell, the voltage deviation being a difference between a voltage of the fuel cell and an average value of the voltages of the plurality of fuel cells at a plurality of predetermined times,

and configured to increase or decrease the fuel supply amount of each fuel cell according to the voltage deviation while keeping a total fuel supply amount unchanged and/or increase or decrease the air supply amount of each of fuel cell according to the voltage deviation while keeping a total air supply amount unchanged.

The cited prior art fails to disclose or render obvious such a fuel cell system. In particular, according to the Examiner, Imamura discloses this feature in paragraph [0045]. See pg. 3 of the November 29, 2010 Office Action. Moreover, the Examiner suggests that it is inherent that when the load is constant, the total input of the fuel and air must be constant. However, Applicants submit that Imamura merely discloses in paragraph [0045] that the “electric power supplied to the load 11 is controlled in such a manner that air and hydrogen supplies are simultaneously controlled by changing rotations of the air pump 21 and hydrogen pump 33, respectively”.

On the contrary, in the invention as recited in independent claim 1, the controller is configured to increase or decrease the fuel supply amount of each said fuel cell according to the voltage deviation while keeping a total fuel supply amount unchanged and/or increase or decrease the air supply amount of each said fuel cell according to the voltage deviation while keeping a total air supply amount unchanged. This is distinct from Imamura which merely states that the air and hydrogen supplies are controlled. Moreover, Applicants submit that such a claim element is not inherent in Imamura. The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993); *see also* MPEP 2112. There is no evidence that this claim element is necessarily present in Imamura. That is, there is no evidence that it is inherent that while the fuel and/or air supply is increased or decreased for each fuel cell, the total fuel and/or air supply amount is unchanged. Thus, Applicants submit that Imamura fails to disclose each of the elements recited in independent claim 1 of the present application.

Moreover, there is no reasoning in the prior art to modify Imamura such that it would have rendered independent claim 1 obvious. Any such reasoning would have involved improper hindsight. Therefore, Applicants submit that independent claim 1 and its dependent claims are allowable over the cited prior art.

***Rejections Under 35 U.S.C. §103(a)***

Claim 3 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Imamura as applied to claim 1, and further in view of Enjoji et al. (US 2004/0185315). Claims 6 and 7 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Imamura as applied to claim 1, and further in view of Kozu et al. (US 2005/0014043).

Applicants submit that since each of these claims is dependent from claim 1 and since neither Enjoji nor Kozu overcome the deficiencies of Imamura, each of these claims is allowable for the reasons set forth above.

***Conclusion***

In view of the foregoing amendments and remarks, all of the claims now pending in this application are believed to be in condition for allowance. Reconsideration and favorable action are respectfully solicited.

Should the Examiner believe there are any remaining issues that must be resolved before this application can be allowed, it is respectfully requested that the Examiner contact the undersigned by telephone in order to resolve such issues.

Respectfully submitted,

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/Jeffrey J. Howell/

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